

Remarks/Argument

This is in response to the office action mailed on May 20, 2003. This paper is being submitted within the three-month shortened statutory period, and no fee is believed due. If a fee is due, the Commissioner is hereby authorized to charge Deposit Account 50-0573.

Claims 1-42 are pending in the application. This response cancels claims 9-19 and 23-42 without prejudice to the filing of a divisional application, and amends claims 1, 3, 18 and 20. Upon entry of this response, claims 1-8 and 20-22 will be pending. Reconsideration of these claims is requested based on the amendments and remarks presented below.

Claim 3 has been amended to correct typographic errors, in which the variable "n" was incorrectly listed as "m", and the upper limit of n was incorrectly given as 20 instead of 10.

Election/Restrictions

The Applicants appreciate the Examiner's thoughtful review of the restriction requirement, and acknowledge that all R-X groups and $n = 1-10$ have been rejoined with the elected invention. Also, the Examiner has rejoined SEQ ID NO: 55 with elected sequence SEQ ID NO: 56, because these sequences share a common core sequence and each was found to be free of the prior art.

In fact, SEQ ID NOS: 55 and 56 are lysine-extended analogs of SEQ ID NO: 1; see pg. 19, lns. 21-23 and pg. 20, lns. 6-7 of the present specification. SEQ ID NO: 1 contains the core sequence QRYGRELRRMSDEF, which is found in SEQ ID NOS: 2, 3, 28 and 29 as well as in SEQ ID NOS: 55 and 56. All of these peptides thus share a core sequence, albeit a slightly shorter one than identified by the Examiner, which can be used as basis to examine all six sequences in a single application.

A "BLAST" search of SEQ ID NOS: 1, 2, 3, 28 and 29 confirms that each of these peptides is novel. By the same logic applied by the Examiner to rejoin SEQ ID NO: 55 with the elected invention, Applicants request that SEQ ID NOS: 1, 2, 3, 28 and 29 be examined along with SEQ ID NOS: 55 and 56 in this application.

Response to the section 112, 2nd paragraph rejection

Claim 1 has been rejected as indefinite for not specifically reciting elected sequence SEQ ID NO: 56 and rejoined sequence SEQ ID NO: 55. In order to advance prosecution of this case, claim 1 has been amended to recite the elected and rejoined sequences, as suggested by the Examiner. SEQ ID NOS: 55 and 56 share a common core sequence with SEQ ID NOS: 1, 2, 3, 28 and 29. As each of these sequences is novel, it is appropriate to include these sequence in the claims under examination. Therefore, SEQ ID NOS: 1, 2, 3, 28 and 29 have been included in claim 1 along with SEQ ID NOS: 55 and 56. Applicants believe that claim 1 as amended is definite, and the 35 U.S.C. 112, 2nd paragraph rejection of this claim should be withdrawn.

Claim 9 has been rejected as indefinite for reciting that the peptide of the claimed conjugate is a “modulator” of apoptosis. (The Examiner mistakenly identified claim 9 as claim 10 in the Detailed Action.) Claims 10-14 have been rejected as indefinite for reciting that the peptides of the claimed conjugates are inhibitors or inducers of apoptosis. Applicants disagree that claims 9-14 are indefinite; however, in the interest of advancing prosecution, these claims (along with additional dependent claims 15-17) have been cancelled without prejudice to the filing of a divisional application.

Claims 18 and 19 have been rejected as indefinite for reciting non-elected peptide sequences. The Examiner has suggested that these claims be cancelled as redundant over amended claim 1. However, claim 18 (which ultimately depends from claim 1) recites conjugates in which the peptide is selected from the group consisting of SEQ ID NOS: 1-57, *or analogs of such peptides*. This latter feature is not found in claim 1 as amended. Limiting claim 18 to the peptide sequences recited in claim 1 would therefore result in a claim that is broader in scope than claim 1.

Claim 1 has therefore been amended to incorporate the “analog” feature of claim 18; *i.e.*, that the peptide of the claimed conjugate is selected from SEQ ID NOS: 1, 2, 3, 28, 29, 55, 56, and analogs thereof in which one or more amino acids of SEQ ID NOS: 1, 2, 3, 28, 29, 55 or 56 are conservatively substituted with another amino acid. Support for this amendment is found in claims 18 and 19 as originally filed, and on pg. 16, ln. 28 to pg. 17, ln. 5. Claims 18-19 have been cancelled without prejudice.

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Conclusion

Based on the foregoing, Applicants believe that all pending claims are in condition for allowance. An early and favorable action in this regard is earnestly solicited.

Respectfully submitted,

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